

## REMARKS/ARGUMENTS

This is a response to the Office Action dated May 27, 2009. Claims 1-10 are pending in the present application with claim 1 being in independent form. Applicant has amended claim 1 herein in order to further clarify the features of the present application.

Claims 1-6, 7, 9 and 10 remain rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,148,912 to Nozawa in view of U.S. Patent No. 6,041,477 to Rentsch et al. (hereinafter "Rentsch"). Applicant respectfully requests reconsideration of this rejection.

The reasons for rejection are substantially the same as those set forth in the previous Office Action dated October 2, 2008.

As was noted in Applicant's previous response dated January 30, 2009, none of the references cited by the Examiner, disclose a closure that is "moulded in closed position" as is required by claim 1 of the present application. In each of the references cited by the Examiner, the closure, or cap, is molded in an open position. Indeed, it would not have been possible to mold the caps disclosed in the art cited by the Examiner in a closed position. The reasons for this conclusion were set forth in full in Applicant's previous response.

Further, both Nozawa and Rentsch fail to disclose a closure including "a lid, comprising a sealing means to seal an orifice of the bottle," as is also required by claim 1 of the present application. In contrast, in both Nozawa and Rentsch, the seal acts on the body of the closure and not on the bottle, as is required by claim 1 of the present application. In Nozawa, the plug 4 fits in the opening 2 of the body 1 to provide a seal. Similarly, in Rentsch, the counterpart 16 formed on the lid 23 is used to seal the outflow opening 17 of the closure body 24. Thus, in both Nozawa and Rentsch, the only sealing takes place between the lid and the body of the closure and not between the closure and the "orifice of the bottle" as is required by claim 1 of the present application.

In response to these arguments, the Examiner asserts at page 9 of the final Office Action that there are alternative molding techniques that would allow molding of the closure in Nozawa or Rentsch to be molded sequentially in a two step process and molded in a closed position. Applicant respectfully must disagree.

The Examiner asserts that it is possible to mold the closures of the prior art in a closed position, however, he has failed to provide any sort of support for this assertion. Applicant's

previous response explained in detail why the mold used in Nozawa could not be used as suggested by the Examiner. The Examiner, however, has failed to identify any reference that would support his bare assertion that this is incorrect. Thus, Applicant respectfully submits that the prior art cited by the Examiner does not, and can not, disclose a closure that is “moulded in closed position,” as required by claim 1, for example, of the present application.

Further, the Examiner has argued that the plug and opening in the closure of Nozawa, and the equivalent structure of Rentsch, are interpreted to seal the orifice of the bottle. While Applicant does not agree with this interpretation, since the claims specifically require that it is the orifice of the bottle that is sealed, and not the closure, in an effort to advance prosecution of the present application, claim 1 has been amended to further specify that the closure has “a ring shaped body” and that the “sealing means” seal “an orifice of the bottle, the sealing means directly contacting the neck of the bottle.” Support for the amendments can be found at least at page 3, lines 1-5, page 7, lines 5-6 and Figs. 1 and 8 of the present application.

None of the references identified by the Examiner disclose a closure that includes a “ring shaped body” as is required by amended claim 1.

Further, as noted above, in Nozawa, the plug 4 fits in the opening 2 of the body 1 to provide a seal. Similarly, in Rentsch, the counterpart 16 formed on the lid 23 is used to seal the outflow opening 17 of the closure body 24. The plug 4 of Nozawa and the element 16 of Rentsch, however, do not directly contact “the neck of the bottle,” as is further required by amended claim 1.

Accordingly, Applicant respectfully submits that claim 1, and the claims depending therefrom, are patentable over the cited art for at least the reasons described above.

Claim 8 remains rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Nozawa in view of Rentsch and further in view of U.S. Patent Publication No. 2002/0079282 to Harrold et al. (hereinafter “Harrold”). Reconsideration of this rejection is respectfully requested.

Claim 8 depends from claim 1. Applicant believes that claim 1 is patentable over Nozawa and Rentsch for at least the reasons described above. Further, Applicant believes that claim 1 is patentable over Nozawa, Rentsch and Harrold, since Nozawa, Rentsch and Harrold, either alone or in combination, fail to show or suggest the patentable features of claim 1 described above.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, including claim 8, are patentable over the cited art for at least the reasons described above.

In light of the remarks and amendments made herein, Applicant respectfully submits that claims 1-10 are patentable over the cited art and are in condition for allowance.

Favorable reconsideration of the present application is respectfully requested.

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY  
THROUGH THE PATENT AND  
TRADEMARK OFFICE EFS FILING  
SYSTEM ON **August 27, 2009**.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Keith J. Barkaus', is written over a horizontal line.

Keith J. Barkaus  
Registration No.: 51,431  
OSTROLENK, FABER, GERB & SOFFEN, LLP  
1180 Avenue of the Americas  
New York, New York 10036-8403  
Telephone: (212) 382-0700

DAM/KJB:dlg